Summary of Proposed Rules

These proposed rules establish acceptable methods for property tax valuation of affordable housing in three categories: 1) IRC §42 LIHTC (tax credit) housing; 2) loan subsidized rural rental housing (§515 Housing Act of 1949); and 3) loan-for-credit housing (§1602 American Reinvestment and Recovery Act of 2009). In each instance the proposed method attempts to measure the property value contribution of the subsidy as a source of income or avoided expense supplementing restricted (below market) property rents.

The proposed methods are derived from value approaches approved in property tax appeal rulings involving these property categories, including:

Appeal of Troy Place Apartments (Initial Decision and Order 1/26/93, Final Decision and Order 11/12/93) Estimated income in the income approach to value must reflect the value of the interest rate subsidy.

Spring Hill LP v. TN State Board of Equalization, 2003 WL 23099679 (TN Court of Appeals 12/31/2003). "We conclude that the trial court correctly found the Tax Credits relate directly to the real property and are not an intangible benefit severable and sold to third parties and that they were properly included in the valuation. The Board has properly balanced both the value enhancing factor of the Tax Credits and the value reducing effect of the restricted rents with respect to the properties in dispute and has arrived at a value that reflects the property's sound, intrinsic, and immediate value."

Appeal of Sevierville Senior Apartments LP et al. (Final Decision and Order 12/5/2014). "[T]he methods used by the assessors here compare favorably with those endorsed in the Spring Hill case. Those methods effectively measure the real property value contributed by the forgiven loans, similar to the tax credits' value acknowledged in the *Spring Hill* case."

With respect to IRC §42 LIHTC (tax credit) housing, the rules permit the property owner to elect one of the following methods of attributing value to the credits:

1. Declining value. The tax credit subsidy would be valued as the present value of all remaining (unused) tax credits as of January 1 of the assessment year at issue; or
2. Level value. The tax credit subsidy would be valued for each year the credits continue, as the average of annual values of remaining credits over the life of the credits.

Attached are examples contrasting a conventional (unsubsidized) property valuation with valuations of a tax credit property using each of the election methods described above. It is assumed most owners would elect the level value, unless the particular subject property is halfway or further along the declining value period of the life of the credits.

On the effective date of the rules, tax credit properties already being valued by an assessor using one of the methods described above would continue to be valued using the assessor's existing method.

§515 rural rental (loan interest) subsidized housing would be valued by adding additional property income in the income approach to value, representing the interest expense avoided by the owner as the result of the subsidy.

§1602 forgivable loan housing would be valued by adding additional property income in the income approach to value, representing the amount of loan principal forgiven for the year at issue.

The restricted use component of value would be updated by the assessor when the county is reappraised, or more often if the assessor is provided more current property information or if the assessor is ordered to adjust the value in an appeal.